

Attorney Docket: 060258-0276662
Client Reference: 2980355US/VK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
MIKA AALTO, ET AL.

Confirmation Number: 1688

Application No.: 09/762,226

Group Art Unit: 2145

Filed: March 7, 2001

Examiner: CHOUDHURY, Azizul Q.

Title: INTERNET/INTRANET ACCESS MECHANISM

**RESPONSE TO NOTICE OF PANEL DECISION FROM
PRE-APPEAL BRIEF REVIEW**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Panel Decision From Pre-Appeal Brief Review indicating that the Notice of Appeal was not filed concurrent with the Pre-Appeal Brief Request, Appellant asserts that the Notice of Panel Decision is clearly incorrect as indicated by the attached copy of the stamped receipt from the U.S. Patent and Trademark Office stating that the following items were concurrently filed on October 4, 2006, 1) Notice of Appeal; 2) Attachment Sheet on Pre-Appeal Brief; 3) Pre-Appeal Brief Cover Sheet; and an 4) Extension of Time. Copies of the filed documents are enclosed.

Accordingly, Appellants submit that the Improper Request be withdrawn.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP


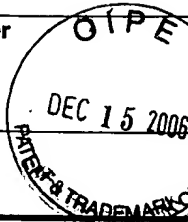
CHRISTINE H. MCCARTHY

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Date: December 15, 2006
P.O. Box 10500
McLean, VA 22102
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Application Number 	Application/Control No. 09/762,226 Azizul Q. Choudhury	Applicant(s)/Patent under Reexamination AALTO ET AL. Art Unit 2145	
Document Code - AP.PRE.DEF			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 10/4/06.

1. ☒ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☒ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☐ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

- ☐ The panel has determined the status of the claim(s) is as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: _____
- Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Azizul Q. Choudhury.

(2) Jason Cardone.

(3) Lynne H Browne.

(4) _____.


Lynne H. Browne
Appeal Specialist, TQAS
Technology Center 2100

Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

060258-0276662

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on _____

Signature _____

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name _____

Application Number

09/762,226

Filed

March 7, 2001

First Named Inventor

Mika AALTO

Art Unit

2145

Examiner

Choudhury, Azizul Q.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 41,844

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Christine H. McCarthy

Typed or printed name

703.770.7743

Telephone number

October 4, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket: 060258-0276662
Client Reference: 2980355US/VK



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
MIKA AALTO, ET AL.

Confirmation Number: 1688

Application No.: 09/762,226

Group Art Unit: 2145

Filed: March 7, 2001

Examiner: CHOUDHURY, Azizul Q.

Title: INTERNET/INTRANET ACCESS MECHANISM

**SUPPLEMENTAL ATTACHMENT SHEETS TO
PRE-APPEAL BRIEF CONFERENCE REQUEST**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant hereby requests that a panel of examiners formally review the legal and factual basis of the rejections in the above-identified application prior to the filing of an appeal brief. Appellant asserts that the outstanding rejections (now on appeal by virtue of the concurrently filed Notice of Appeal) are clearly improper based both upon errors in facts and the omission of essential elements required to establish a prima facie rejection (i.e., the prior art references fail to disclose, teach or suggest all the recited claim features).

Claims 1-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Dulman (U.S. 5,915,008) in view of Strauss et al. (U.S. 5,940,598). Appellants traverse the rejection because the cited prior art fails to disclose, teach or suggest all the features recited in the rejected claims. For example, the cited prior art fails to disclose, teach or suggest the claimed connection of one of several customer premises equipment, or CPE, via an ATM network to one of several service providers, wherein each CPE is connected to the ATM network via a corresponding network termination point, or NT; and an access server function, or ASF, is formed having a permanent virtual connection to each NT and a connection to each SP; a tunneling protocol is established on that permanent virtual connection between each NT and the ASF, that tunneling protocol being able to support an integrated signaling protocol;

wherein the CPE or its user selects an appropriate SP by using the integrated signaling protocol, routing is performed from the CPE to the selected SP by the ASF; and the ASF connects the CPE to the selected SP using the integrated signaling protocol, as recited in independent claims 1 and 8 and their respective dependent claims.

Dulman merely illustrates an improved provisioning system for activation/de-activation of intelligent network services. Although Dulman lists various alternatives what can be the underlying technologies for the needed TCP/IP connectivity (e.g., ATM), Dulman fails to disclose, teach or suggest an ATM network that connects one of several customer premises equipment to one of several service providers, wherein each CPE is connected to an ATM network via a corresponding network termination point, as recited in the rejected claims. That claim language requires that the ATM network starts at the Network Termination (NT) equipment on the customer premises site. Thus, each CPE equipment has its own NT and dedicated ATM connection.

However, Dulman's Advanced Intelligent Network (AIN), which the Office Action equated to the claimed ATM network, starts after the firewall server, not at the dedicated NT equipment for each CPE. As illustrated in Dulman's Figure 2, the AIN is located behind the firewall server; therefore, the AIN does not include a link to the customer premises. To the contrary, the ATM network referred to in the claimed invention starts at the NT located at the customer premises and ends at the service provider site. Therefore, Dulman's AIN does not correspond to the claimed ATM network. Therefore, contrary to the assertions of the Office Action, Dulman fails to teach or suggest an ATM network or the CPE referred to in the claims.

Furthermore, according to Dulman, at column 10, lines 11-14, the NAP is referred to as a central office; therefore, the NAP is not located at a customer premises. Moreover, Dulman teaches that the NAP is connected via link 14 to the CPE. That link 14 is defined at column 10 lines 51-53 as a conventional POTS/ISDN link, which means link 14 would merely be equivalent to the link between the NT and the ASF in the invention. Accordingly, the claimed NT does not correspond to Dulman's NAP.

Moreover, even if Dulman's AIN corresponded to an ATM network, which it does not, the Office Action has erroneously asserted that Strauss teaches or suggests the remaining features of the rejected claims. More specifically, the Office Action has asserted that Strauss teaches a design that features an AIN and that that design uses an encapsulation means.

Nevertheless, neither Strauss, analyzed individually or in combination with Dulman, fails to disclose, teach or suggest the claimed permanent virtual connection between each NT and the ASF. Strauss refers to a “virtual circuit;” however, Strauss refers to that term only in its description of the prior art. As a result, Strauss, analyzed individually or in combination with Dulman, fails to disclose, teach or suggest an ASF that has a permanent virtual connection to each NT and a connection to each SP. Moreover, the Office Action has failed to identify where in either Strauss or Dulman is taught the claimed CPE or user selecting an appropriate SP by using the integrated signaling protocol. Likewise, Office Action has failed to identify what part of the cited prior art teaches or suggests the claimed performance of routing from the CPE to the selected SP by the ASF because neither reference discloses an ASF. Although Figure 2 of Dulman illustrates an access server 48; no disclosure is provided regarding what connections are made with that server. Finally, the Office Action has failed to identify what part of the prior art teaches or suggests the claimed connection by the ASF of the CPE to the selected SP using the integrated signaling protocol because neither Dulman nor Strauss teaches or suggests an ASF.

In response to these previously asserted arguments, the Examiner asserted that the NAP of Dulman’s design is able to be an ATM switch (column 10, lines 14-15). Thus, the Examiner has asserted that the NAP being located ahead of the firewall server and being ATM compatible would indicate that Dulman’s design allows for the ATM network to start at the claimed NT (NAP). The Examiner also asserted that Dulman’s design allows the NAP to be networked with the CPE. Although the Examiner recognized that the physical distance separating the NAP from the CPE is not disclosed in Dulman but that it is well known in the art that networked devices are able to be within the premises of one another while remaining networked.

However, based on the teachings of Dulman, there is no suggestion that the NAP is separated from the CPE. In fact, Dulman merely discloses a CPE as a separate item from the NAP (which the Examiner has incorrectly considered equivalent to the claimed CPE).

The Examiner also incorrectly asserted that the Strauss teaches how an AIN can be utilized virtually at column 13, lines 26-28. That assertion is factually incorrect. Strauss merely teaches that, when classic end-to-end CCIS and AIN signaling are not available, a virtual AIN signaling system may be utilized. Thus, the Examiner has merely asserted that Strauss teaches a virtual AIN. However, the Examiner has failed establish if or where Strauss

teaches an ASF having a permanent virtual connection to each NT and a connection to each SP.

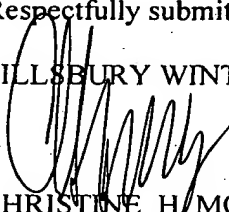
The Examiner also asserted that Dulman teaches how a service request is transferred from the CPE to the service using protocols (column 5, lines 26-38). However, the Examiner has merely stated that Dulman teaches how a service request is transferred from the CPE to the service using protocols. However, Dulman only uses the term "protocol" in the context of translating protocol. Moreover, the Examiner has failed to address whether Dulman discloses anything beyond transferring a service request...using protocols.

The Examiner further asserted that provides an ASF because Dulman's CPE server (element 16b, Figure 2) combined with NAT function provides server access. However, the claims require an ASF having a permanent virtual connection to each NT and a connection to each SP. Even if the Examiner's analysis were correct, Dulman would merely disclose something comparable to an ASF. However, the Examiner's analysis is unclear: in some passages, the Office Action equates Dulman's NAP to the claimed CPE, whereas, in others, the Dulman's server is equated to the ASF. Thus, the roles of the access server and the customer premises equipment are reversed.

Accordingly, Appellants submit that the rejection of claims 1-14 should be withdrawn because Dulman and Strauss, analyzed individually or in combination, fail to disclose, teach or suggest the claimed invention. Therefore, claims 1-14 are allowable.

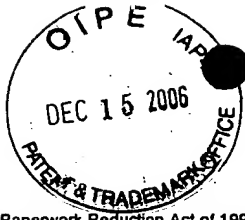
Respectfully submitted,

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PTO/SB/31 (04-05)
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**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

060258-0276662

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on _____

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name _____

In re Application of

MIKA AALTO, et al.

Application Number

09/762,226

Filed

March 7, 2001

For INTERNET/INTRANET ACCESS MECHANISM

Art Unit

2145

Examiner

CHOUDHURY, Azizul Q.

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ 500.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 033975. I have enclosed a duplicate copy of this sheet.
- ☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 41,844
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____


Signature

Christine H. McCarthy
Typed or printed name

703.770.7743
Telephone number

October 4, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

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